

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1112 be amended to read as follows:

- 1 Page 2, after line 8, begin a new paragraph and insert:
- 2 "SECTION 2. IC 35-50-2-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The court may
- 4 suspend any part of a sentence for a felony, except as provided in this
- 5 section or in section 2.1 of this chapter.
- 6 (b) With respect to the following crimes listed in this subsection,
- 7 the court may suspend only that part of the sentence that is in excess of
- 8 the minimum sentence, unless the court has approved placement of the
- 9 offender in a forensic diversion program under IC 11-12-3.7:
- 10 (1) The crime committed was a Class A or Class B felony and
- 11 the person has a prior unrelated felony conviction.
- 12 (2) The crime committed was a Class C felony and less than
- 13 seven (7) years have elapsed between the date the person was
- 14 discharged from probation, imprisonment, or parole, whichever
- 15 is later, for a prior unrelated felony conviction and the date the
- 16 person committed the Class C felony for which the person is
- 17 being sentenced.
- 18 (3) The crime committed was a Class D felony and less than
- 19 three (3) years have elapsed between the date the person was
- 20 discharged from probation, imprisonment, or parole, whichever
- 21 is later, for a prior unrelated felony conviction and the date the
- 22 person committed the Class D felony for which the person is
- 23 being sentenced. However, the court may suspend the minimum
- 24 sentence for the crime only if the court orders home detention
- 25 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
- 26 sentence specified for the crime under this chapter.
- 27 (4) The felony committed was:
- 28 (A) murder (IC 35-42-1-1);
- 29 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
- 30 causing death;
- 31 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- 32 (D) kidnapping (IC 35-42-3-2);

1 (E) confinement (IC 35-42-3-3) with a deadly weapon;
 2 (F) rape (IC 35-42-4-1) as a Class A felony;
 3 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 4 felony;
 5 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
 6 felony;
 7 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury
 8 or with a deadly weapon;
 9 (J) arson (IC 35-43-1-1) for hire or resulting in serious
 10 bodily injury;
 11 (K) burglary (IC 35-43-2-1) resulting in serious bodily
 12 injury or with a deadly weapon;
 13 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
 14 weapon;
 15 (M) escape (IC 35-44-3-5) with a deadly weapon;
 16 (N) rioting (IC 35-45-1-2) with a deadly weapon;
 17 (O) dealing in cocaine, a narcotic drug, or
 18 methamphetamine (IC 35-48-4-1) if the court finds the
 19 person possessed a firearm (as defined in IC 35-47-1-5) at
 20 the time of the offense, or the person delivered or intended
 21 to deliver to a person under eighteen (18) years of age at
 22 least three (3) years junior to the person and was on a school
 23 bus or within one thousand (1,000) feet of:
 24 (i) school property;
 25 (ii) a public park;
 26 (iii) a family housing complex; or
 27 (iv) a youth program center;
 28 (P) dealing in a schedule I, II, or III controlled substance (IC
 29 35-48-4-2) if the court finds the person possessed a firearm
 30 (as defined in IC 35-47-1-5) at the time of the offense, or the
 31 person delivered or intended to deliver to a person under
 32 eighteen (18) years of age at least three (3) years junior to
 33 the person and was on a school bus or within one thousand
 34 (1,000) feet of:
 35 (i) school property;
 36 (ii) a public park;
 37 (iii) a family housing complex; or
 38 (iv) a youth program center;
 39 (Q) an offense under IC 9-30-5 (operating a vehicle while
 40 intoxicated) and the person who committed the offense has
 41 accumulated at least two (2) prior unrelated convictions
 42 under IC 9-30-5;
 43 (R) an offense under IC 9-30-5-5**(b)** (operating a vehicle
 44 while intoxicated causing death); ~~if the person had:~~
 45 ~~(i) at least fifteen-hundredths (0.15) gram of alcohol~~
 46 ~~per one hundred (100) milliliters of the person's blood;~~
 47 ~~or at least fifteen-hundredths (0.15) gram of alcohol per~~
 48 ~~two hundred ten (210) liters of the person's breath; or~~
 49 ~~(ii) a controlled substance listed in schedule I or II of~~
 50 ~~IC 35-48-2 or its metabolite in the person's blood; or~~
 51 (S) aggravated battery (IC 35-42-2-1.5).
 52 (c) Except as provided in subsection (e), whenever the court

1 suspends a sentence for a felony, it shall place the person on probation
2 under IC 35-38-2 for a fixed period to end not later than the date that
3 the maximum sentence that may be imposed for the felony will expire.

4 (d) The minimum sentence for a person convicted of voluntary
5 manslaughter may not be suspended unless the court finds at the
6 sentencing hearing that the crime was not committed by means of a
7 deadly weapon.

8 (e) Whenever the court suspends that part of an offender's (as
9 defined in IC 5-2-12-4) sentence that is suspendible under subsection
10 (b), the court shall place the offender on probation under IC 35-38-2 for
11 not more than ten (10) years.

12 (f) An additional term of imprisonment imposed under
13 IC 35-50-2-11 may not be suspended.

14 (g) A term of imprisonment imposed under IC 35-47-10-6 or
15 IC 35-47-10-7 may not be suspended if the commission of the offense
16 was knowing or intentional.

17 (h) A term of imprisonment imposed for an offense under
18 IC 35-48-4-6(b)(1)(B) may not be suspended."

(Reference is to EHB 1112 as printed March 25, 2005.)

Senator YOUNG R MICHAEL